

Minerals Management Service, Interior

§ 230.457

request for refund or credit for purposes of this section, and does not constitute an incomplete request for refund or credit for purposes of paragraph (c) of this section.

(e) A person who has filed a request for refund or credit pursuant to this section may amend that request to add an additional amount if:

(1) The additional amount is for the same lease and sales month; and

(2) The reason for the excess payment for the additional amount is the same as for the originally requested amount.

(f) Except as otherwise provided in this subpart, no request for a refund or credit will be approved unless the request is received at MMS at the address provided below within 2 years of the date that MMS received the excess payment.

(1) The request for refund or credit must be received at the following address:

(i) By mail: Minerals Management Service, Section 10 Refund Requests, P.O. Box 173702, Denver, CO 80217-3702.

(ii) By express delivery or courier: Minerals Management Service, Section 10 Refund Requests, Building 85, Denver Federal Center, Room A-212, Denver, CO 80225.

(2) If the last day of the 2-year period from the date MMS received the excess payment falls on a Saturday, Sunday, holiday or any other day that MMS is not open for business at the address specified in paragraph (f)(1) of this section, then the last day of the 2-year period will be the next regular business day. Requests received at the specified MMS address after 4 p.m. Mountain Time are considered received the following business day.

§ 230.454 Interest on excess payments.

No person is entitled to interest on any excess payment made in connection with a lease that is refunded or recouped pursuant to this subpart.

§ 230.455 Authorization of refund or credit and subsequent audit.

MMS may grant a refund or authorize a credit based upon satisfactory evidence that the payment for which a refund or credit is requested was made, and upon a determination that the payment was excess. An approved request

for refund or credit may be subject to later review or audit by MMS. If, based upon later review or audit, MMS determines that the refund or credit should not have been granted or authorized, the person who requested the refund or credit must repay the amount refunded or recouped plus interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the refund was made or the recoupment taken until the date it is repaid.

§ 230.456 Offsets of overpayments and underpayments on the same lease (or unit) by the same person.

If a person makes an overpayment on any OCS lease or unit in a prior month, it may offset that overpayment against an underpayment that same person made in any prior month on that same lease or unit for the same or a different product without submitting a request for refund or credit. This offset is permitted only if the underpayment was not created as a result of a credit adjustment to recoup the amount of the overpayment or was not otherwise created intentionally to provide an underpayment against which to offset the overpayment. This offset also is subject to any limitations imposed by other applicable law or regulations.

§ 230.457 Offsets among different persons who reported and paid royalties on a lease for the same prior sales month.

(a) This section applies to any reallocation of production for a prior sales month among different persons who reported and paid royalty for that month on a lease or unit, except for reallocations of production that result from the approval or amendment of a unit agreement subject to § 230.461(b).

(b) In the event of a reallocation of production as described in paragraph (a) of this section, the respective persons who reported and paid royalty may reconcile any resulting differences in royalty payment obligations between themselves without submitting revised royalty reports or requests for refund or credit to MMS under this subpart, except that:

(1) Any person who paid any amount which remains as a net overpayment after such reconciliation must file a request for refund or credit in accordance

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with the requirements of this subpart to recover the excess payment;

(2) Any person whose royalty obligation remains underpaid after such reconciliation must report the additional royalties due for the prior sales month on a Form MMS-2014 and pay interest on the underpayment from the last day of the month following the sales month until the date the additional royalties are paid; and

(3) All persons involved in such reconciliation must retain all documents pertaining to the reallocation of production, calculation of royalties due, and the subsequent reconciliation among the persons involved together with other records pertaining to production from that lease during the prior sales month and the royalty due and paid thereon, and make such documents available for review and audit in the same manner as other records pertaining to the lease.

(c) If persons who reported and paid royalty do not reconcile between themselves any differences in royalty payment obligations arising as a result of a reallocation as provided in paragraph (b) of this section, each person who pays royalties for the lease must report and pay any additional royalties due, or file a request for refund or credit in accordance with the requirements of this subpart to recover the excess payment, as applicable. Any person who reports additional royalties due for the prior sales month must pay interest pursuant to 30 CFR 218.54 on the underpayment from the last day of the month following the sales month until the date the additional royalties are paid.

§ 230.458 Unauthorized credit adjustments.

(a) If a person reports a credit adjustment on Form MMS-2014 that results in a credit before MMS approves the recoupment pursuant to § 230.455, and if the credit adjustment does not qualify as one of the transactions not subject to section 10 as provided in § 230.461, then that person has taken an unauthorized credit adjustment.

(1) If the unauthorized credit adjustment recouped a payment that MMS received more than 2 years before the date MMS received the Form MMS-2014

which includes the unauthorized credit adjustment, the person must repay the amount recouped plus late payment interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the unauthorized recoupment was taken until the date it is repaid. Unless the person filed a request for refund or credit pursuant to § 230.453 within 2 years of the making of the excess payment for which the unauthorized credit adjustment was reported, the excess payment is not subject to refund or recoupment.

(2) If the unauthorized credit adjustment recouped a payment that MMS received less than 2 years before the date MMS received the Form MMS-2014 with the unauthorized credit adjustment, the person must repay the amount recouped plus late payment interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the unauthorized recoupment was taken until the date it is repaid. The report of the unauthorized credit adjustment on the Form MMS-2014 does not constitute a request for refund or credit that tolls the 2-year period in section 10(a), 43 U.S.C. 1339(a). The person may file a request for refund or credit pursuant to section 230.453 for the payment for which the unauthorized credit adjustment was reported. MMS will review the request pursuant to the requirements of this subpart only if the request for refund or credit is received within 2 years of the making of the original payment for which the unauthorized credit adjustment was reported.

(b) A person who reports an unauthorized credit adjustment to MMS on a Form MMS-2014 will be assessed \$500 for each unauthorized credit adjustment reported.

§ 230.459 Stopping or tolling of the section 10(a) 2-year period.

(a) The period of 2 years from the making of the excess payment, within which a request for refund or credit must be filed under section 10(a), 43 U.S.C. 1339(a), will be:

(1) Tolloed by MMS's receipt of a substantially complete request for refund or credit pursuant to § 230.453; or

(2) Tolloed by a general tolling notice issued by MMS and published in the